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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,805	11/30/2001	Charles Martinka	121 P 120	6621
26568	7590	06/16/2004	EXAMINER	
COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD SUITE 2850 200 WEST ADAMS STREET CHICAGO, IL 60606			SMITH, JAMES G	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/997,805	Applicant(s) MARTINKA, CHARLES	
	Examiner James G. Smith	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Amended claim 8 now clearly recites the first member as having the slot and the second member as having the pivot pin, however is also states that the first member has the stop pin, however it is originally shown that the second member has the stop pin and that it must abut the first member and not itself.

There is no antecedent basis for "the stop pin of the second elongated member".

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Marti or Brass in view of Litchfield.

Either Marti or Brass shows the claimed invention except for the use of a spring mounted in the slot to bias the jaws into a closed position. Litchfield suggests that a pliers tool can have such a spring mounted in the slot to bias the jaws into a closed position. It would therefore be obvious to one skilled in the art at the time the

Art Unit: 3723

invention was made to modify either Marti or Brass by using a spring mounted in the slot to bias the jaws into a closed position because Litchfield suggests the use of such a spring for the purpose of biasing the pliers jaws into the closed position.

Further, the use of a "stop pin", instead of a pawl or tooth, is obvious as all three are equivalent stops and function in the same manner.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Marti or Brass in view of Litchfield as applied to claims 1-3 above, and further in view of Wilbur.

Either Marti or Brass, as modified by Litchfield, shows the claimed invention except for the use of a retaining pin mounted within the coil spring to stabilize the spring. Wilbur suggests that a pliers can have such a retaining pin mounted within the coil spring to stabilize the spring. It would therefore be obvious to one skilled in the art at the time the invention was made to modify either Marti or Brass by using a retaining pin mounted within the coil spring to stabilize the spring because Wilbur suggests the use of such a retaining pin mounted within the coil spring to stabilize the spring.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Marti or Brass in view of Litchfield as applied to claims 1-3 above, and further in view of Ping.

Either Marti or Brass, as modified by Litchfield, shows the claimed invention except for the construction of the tool by means of a series of riveted plates. Ping suggests that a pliers can be made by using a series of riveted plates. It would therefore be obvious to one skilled in the art at the time the invention was made to modify either Marti or Brass by making the pliers of a series of riveted plates

because Ping suggests the use of such a construction in pliers to be one well known method of construction for tools.

Response to Arguments

7. Applicant's arguments filed 19 March 2004 have been fully considered but they are not persuasive.

Applicant's remarks regarding the teaching of Litchfield are noted, however one skilled in the art desiring to add an automatic biasing feature to a pair of pliers would clearly find such a suggestion in Litchfield, thus claims 1-3 and 8 are unpatentable.

Further, the changes made to claim 8 cure some of the problems, but make new ones. If properly amended, claim 8 would still be a duplicate of claim 3.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Smith whose telephone number is 703-308-1746. The examiner can normally be reached on M-Th (7:05- 4:35) Fri. off.

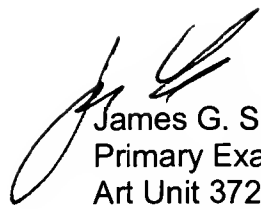
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail, III can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/997,805

Art Unit: 3723

Page 5



James G. Smith
Primary Examiner
Art Unit 3723

jgs
6/14/04